




11-22-1978

Dan White to George Agnost, 22 November 1978

Dan White

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November 22, 1978

George Agnost, City Attorney
City Hall
San Francisco, California 94102

Dear Mr. Agnost,

Yesterday, November 21, 1978, you issued Opinion #78-88 relating to whether I had effectively resigned my Supervisorial Office for District Eight, whether if effective, it may be revoked and whether I may be reappointed to the position.

I am pleased to see that you have concluded that the Mayor has legal authority to reappoint me to my same Supervisorial office if in fact there is a vacancy in District Eight.

Although I concur with your analysis and that conclusion in the Opinion, I wish to correct one very important misstatement of fact on which your Opinion was based. The error does not affect your conclusion that I am eligible to be reappointed to the office of Supervisor if a vacancy exists. It does, however, substantially affect the issue of whether my purported resignation was effective in the first instance.

You state on page one of the Opinion as follows:

"On Friday, November 10, 1978, Supervisor Dan White called a press conference and at this conference he stated that he was resigning his office of Supervisor of District 8. The same day the Supervisor directed and delivered a letter to Mayor Moscone dated November 10, 1978, in which he stated that he was resigning his position effective on that date. A copy of that letter was delivered at the direction of Mr. White (emphasis added) to Mr. Gilbert Boreman, Clerk of the Board of Supervisors, on November 10, 1978."

You further state on page four of the Opinion, as follows:

"As stated above, although former Supervisor White addressed his letter of resignation to the Mayor, he did cause (emphasis added) the letter to be delivered to the Clerk of the Board of Supervisors."

The foregoing statements of alleged fact are incorrect. In fact, I did not cause the letter addressed only to the Mayor to be delivered to the Clerk of the Board of Supervisors. No copy to the Clerk of the Board was even indicated on the original letter.

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My letter was prepared for and delivered exclusively to the Mayor of the City and County of San Francisco. I am advised by my aides that Mr. Boreman, upon hearing a "rumor" that I had "tendered" a resignation, requested a copy. Mr. Boreman took a xeroxed copy of the original letter addressed to the Mayor, proceeded to date-stamp it as being received by the Board of Supervisors, made a copy thereof, and returned a date-stamped copy to my office.

At no time did I instruct my staff to deliver a letter to the Clerk of the Board of Supervisors nor was I made aware of the fact that the letter was obtained by Mr. Boreman in the manner described above until today.

You cite in your opinion that pursuant to California Government Code Section 1750, my resignation should have been as follows:

"Resignation shall be in writing, and made as follows:

"(d) By all officers of a county . . . not commissioned by the Governor, to the clerk of the Board of Supervisors (emphasis added) of their respective counties . . . "

"(e) By officers of a municipal corporation, to the clerk of the legislative body (emphasis added) of their corporation."

I agree with your analysis that the Mayor was the improper authority to whom a resignation should have been submitted, and my lack of intent and appropriate instructions, as well as actual failure, to cause a letter of resignation to be submitted to the Clerk of the Board of Supervisors thereby renders my attempted resignation ineffectual and of no effect.

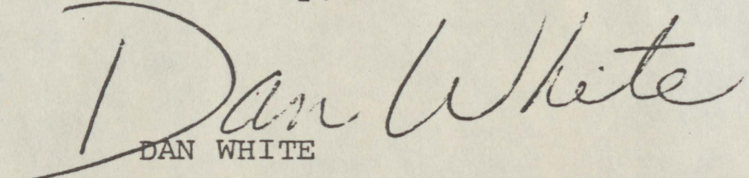
In other words, I am still and have always been since my election, the Supervisor of District Eight. Although I have refrained from exercising my duties as Supervisor in this interim period, based upon your advice to so refrain in order to avoid any possible legal impediments to decisions of the Board of Supervisors, it is my intention to continue henceforth to exercise my rights, obligations, and duties as the duly elected Supervisor of District Eight.

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By copy of this letter to the Mayor and the Clerk of the Board of Supervisors, I am similiarly apprising them of these facts.

Thank you for your continuing attention to this matter.

Sincerely,


DAN WHITE

DW:mw

cc: ✓ Honorable George R. Moscone, Mayor of San Francisco
Mr. Gilbert Boreman, Clerk of the Board of Supervisors